

MICHAEL HAUGER

IBLA 80-856

Decided January 16, 1981

Appeal from decision of the California State Office, Bureau of Land Management, declaring the Big Pine Flat placer mining claim (CA MC 10840) abandoned and void.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Affidavit of Assessment Work or Notice of Intention to Hold Mining Claim--Mining Claims: Abandonment--Mining Claims: Assessment Work

Where the owner of an unpatented mining claim files a copy of the notice of location of this claim with BLM in 1978, he is required to file a copy of the proof of annual labor performed on the claim during the assessment year ending on Sept. 1, 1979, on or before Oct. 22, 1979, failing which his claim is properly declared abandoned and void.

APPEARANCES: Michael Hauger, pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

On April 28, 1978, Michael Hauger, et al. (claimants), filed required information for the Big Pine Flat placer mining claim with the California State Office, Bureau of Land Management (BLM), which assigned serial No. CA MC 10840 to this claim. The claim was originally located on September 5, 1933.

The claimants did not file a copy of their proof of annual labor completed in the assessment year ending on September 1, 1979, with BLM on or before October 22, 1979, or any time in 1979. Accordingly, on August 7, 1980, BLM issued a decision declaring the claim abandoned and void, from which decision Michael Hauger has appealed.

[1] The governing regulation, 43 CFR 3833.2-1(a), provides as follows:

The owner of an unpatented mining claim located on Federal lands on or before October 21, 1976, shall file in the proper BLM office on or before December 30 of each calendar year following the calendar year of recording [of a copy of the notice of location of the claim], which ever date is sooner, evidence of annual assessment work performed during the preceding assessment year or a notice of intention to hold the mining claim.

In the present case, the "calendar year of * * * recording" was 1978, as claimants filed the copy of the original notice of location in 1978. Accordingly, they were required to file evidence of annual assessment work performed during the preceding assessment year on or before October 22, 1979, as this date is sooner than December 30, 1979. Claimants do not deny that they failed to do so.

Appellant asserts that he was not aware of the requirement. However, the record shows that he was sent a copy of the regulations (circular 2419) as an enclosure to BLM's letter of February 15, 1978. In any case, we have repeatedly held that noncompliance with a statute or regulation may not be waived because of ignorance of their requirements. See, e.g., Edwin Forsberg, 47 IBLA 235 (1980).

Under 43 CFR 3833.4(a), failure to file an instrument required by 43 CFR 3833.2-1 must be deemed conclusively to constitute an abandonment of the claim, and it shall be void. Thus, BLM properly declared this claim void.

Therefore, pursuant to the authority delegated to the Board of Land appeals by the Secretary of the Interior, the decision appealed from is affirmed.

Edward W. Stuebing

Administrative Judge

We concur:

James L. Burski
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

